

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

<b>STATE OF OKLAHOMA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 05-cv-329-GKF(SAJ)</b>
	)	
<b>TYSON FOODS, INC., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**STATE OF OKLAHOMA'S RESPONSE TO "DEFENDANTS' NOTICE  
TO THE COURT ON THEIR JOINT MOTION FOR ADDITIONAL  
TIME TO PRODUCE EXPERT REPORTS [DKT #1722]" DKT #1754**

Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma and Oklahoma Secretary of the Environment C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma ("the State"), respectfully responds to "Defendants' Notice to the Court on Their Joint Motion for Additional Time to Produce Expert Reports [DKT #1722]" DKT #1754 as follows:

In response to being advised by Defendants of Dr. John Connolly's family medical issues, the State has readily agreed to a two-month extension of the deadline for the disclosure of his expert report. However, Defendants are seeking a nearly six-month extension of this deadline without providing any basis for why such a lengthy extension is necessary. Neither have Defendants explained why a two-month extension would be inadequate in this situation.

In particular, Defendants have failed to provide any detailed information about: (1) the substantive area of Dr. Connolly's anticipated testimony;<sup>1</sup> (2) any detailed information about the

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<sup>1</sup> Without defining his role *in this case*, Defendants' Notice merely states that Dr. Connolly has expertise in an extraordinarily broad number of areas that may be relevant to the issues in this case, including but not limited to sampling, fate and transport, ecosystem processes

current status of Dr. Connolly's report;<sup>2</sup> or (3) any detailed information about the anticipated amount of time Dr. Connolly's personal obligations will take him away from his work on this case. Without additional information demonstrating the necessity of such a lengthy extension under the circumstances, the request for a nearly six-month extension at this time is inappropriate and -- particularly given the apparent centrality of Dr. Connolly's opinions to Defendants' defense -- would be unfairly prejudicial to the State. *See* DKT #1736, pp. 23-25 (outlining prejudice created by Defendants' request for extensions).

As noted above, the State agreed that a two-month extension is warranted in response to Dr. Connolly's family medical situation. However, to the extent additional time is required, the State submits that a step-wise approach would be the most appropriate way to address this situation. If in early October it becomes apparent that this issue needs to be revisited, then Defendants could file a motion supported by evidence seeking an appropriate additional extension.

Respectfully Submitted,

W.A. Drew Edmondson OBA # 2628  
 ATTORNEY GENERAL  
 Kelly H. Burch OBA #17067  
 J. Trevor Hammons OBA #20234  
 Daniel P. Lennington OBA #21577  
 ASSISTANT ATTORNEYS GENERAL  
 State of Oklahoma  
 313 N.E. 21<sup>st</sup> St.  
 Oklahoma City, OK 73105  
 (405) 521-3921

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and ecotoxicology. Defendants' Notice also suggests that Dr. Connolly might be offering opinions in the areas of exposure assessment, risk assessment and remedial options.

<sup>2</sup> It should not be overlooked that the primary expert disclosure deadline in this case is August 14, 2008, and therefore Dr. Connolly should already have much of his expert work nearly completed.

/s/ M. David Riggs

M. David Riggs OBA #7583  
Joseph P. Lennart OBA #5371  
Richard T. Garren OBA #3253  
Sharon K. Weaver OBA #19010  
Robert A. Nance OBA #6581  
D. Sharon Gentry OBA #15641  
David P. Page OBA #6852  
RIGGS, ABNEY, NEAL, TURPEN,  
ORBISON & LEWIS  
502 West Sixth Street  
Tulsa, OK 74119  
(918) 587-3161

Louis W. Bullock OBA #1305  
Robert M. Blakemore OBA 18656  
BULLOCK, BULLOCK & BLAKEMORE  
110 West Seventh Street Suite 707  
Tulsa OK 74119  
(918) 584-2001

Frederick C. Baker  
(admitted *pro hac vice*)  
Lee M. Heath  
(admitted *pro hac vice*)  
Elizabeth C. Ward  
(admitted *pro hac vice*)  
Elizabeth Claire Xidis  
(admitted *pro hac vice*)  
MOTLEY RICE, LLC  
28 Bridgeside Boulevard  
Mount Pleasant, SC 29465  
(843) 216-9280

William H. Narwold  
(admitted *pro hac vice*)  
Ingrid L. Moll  
(admitted *pro hac vice*)  
MOTLEY RICE, LLC  
20 Church Street, 17<sup>th</sup> Floor  
Hartford, CT 06103  
(860) 882-1676

Jonathan D. Orent  
(admitted *pro hac vice*)

Michael G. Rousseau  
(admitted *pro hac vice*)  
Fidelma L. Fitzpatrick  
(admitted *pro hac vice*)  
MOTLEY RICE, LLC  
321 South Main Street  
Providence, RI 02940  
(401) 457-7700

Attorneys for the State of Oklahoma

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7th day of August, 2008, I electronically transmitted the above and foregoing pleading to the Clerk of the Court using the ECF System for filing and a transmittal of a Notice of Electronic Filing to the following ECF registrants:

W. A. Drew Edmondson, Attorney General	fc_docket@oag.state.ok.us
Kelly H. Burch, Assistant Attorney General	kelly_burch@oag.state.ok.us
J. Trevor Hammons, Assistant Attorney General	trevor_hammons@oag.state.ok.us
Daniel P. Lennington, Assistant Attorney General	daniel.lennington@oag.ok.gov

M. David Riggs	driggs@riggsabney.com
Joseph P. Lennart	jlennart@riggsabney.com
Richard T. Garren	rgarren@riggsabney.com
Sharon K. Weaver	sweaver@riggsabney.com
Robert A. Nance	rnance@riggsabney.com
D. Sharon Gentry	sgentry@riggsabney.com
David P. Page	dpage@riggsabney.com
RIGGS, ABNEY, NEAL, TURPEN, ORBISON & LEWIS	

Louis Werner Bullock	lbullock@bullock-blakemore.com
Robert M. Blakemore	bblakemore@bullock-blakemore.com
BULLOCK, BULLOCK & BLAKEMORE	

Frederick C. Baker	fbaker@motleyrice.com
Lee M. Heath	lheath@motleyrice.com
Elizabeth C. Ward	lward@motleyrice.com
Elizabeth Claire Xidis	cxidis@motleyrice.com
William H. Narwold	bnarwold@motleyrice.com
Ingrid L. Moll	imoll@motleyrice.com
Jonathan D. Orent	jorent@motleyrice.com
Michael G. Rousseau	mrousseau@motleyrice.com
Fidelma L. Fitzpatrick	ffitzpatrick@motleyrice.com
MOTLEY RICE, LLC	

**Counsel for State of Oklahoma**

Robert P. Redemann  
Lawrence W. Zeringue  
David C. Senger  
PERRINE, MCGIVERN, REDEMANN, REID, BARRY & TAYLOR, P.L.L.C.

rredemann@pmrlaw.net  
lzingue@pmrlaw.net  
dsenger@pmrlaw.net

Robert E Sanders  
Edwin Stephen Williams  
YOUNG WILLIAMS P.A.

rsanders@youngwilliams.com  
steve.williams@youngwilliams.com

**Counsel for Cal-Maine Farms, Inc and Cal-Maine Foods, Inc.**

John H. Tucker  
Theresa Noble Hill  
Colin Hampton Tucker  
Leslie Jane Southerland  
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

jtucker@rhodesokla.com  
thill@rhodesokla.com  
ctucker@rhodesokla.com  
ljsoutherland@rhodesokla.com

Terry Wayen West  
THE WEST LAW FIRM

terry@thewestlawfirm.com

Delmar R. Ehrich  
Bruce Jones  
Krisann C. Kleibacker Lee  
Todd P. Walker  
Christopher H. Dolan  
FAEGRE & BENSON, LLP

dehrich@faegre.com  
bjones@faegre.com  
kklee@faegre.com  
twalker@faegre.com  
cdolan@faegre.com

Dara D. Mann  
MCKENNA, LONG & ALDRIDGE LLP

dmann@mckennalong.com

**Counsel for Cargill, Inc. & Cargill Turkey Production, LLC**

James Martin Graves  
Gary V Weeks  
Paul E. Thompson, Jr.  
Woody Bassett  
K. C. Dupps Tucker  
BASSETT LAW FIRM

jgraves@bassettlawfirm.com  
gweeks@bassettlawfirm.com  
pthompson@bassettlawfirm.com  
wbassett@bassettlawfirm.com  
kctucker@bassettlawfirm.com

George W. Owens  
Randall E. Rose  
OWENS LAW FIRM, P.C.

gwo@owenslawfirmmpc.com  
rer@owenslawfirmmpc.com

**Counsel for George's Inc. & George's Farms, Inc.**

A. Scott McDaniel smcdaniel@mhla-law.com  
Nicole Longwell nlongwell@mhla-law.com  
Philip Hixon phixon@mhla-law.com  
Craig A. Merkes cmerkes@mhla-law.com  
MCDANIEL, HIXON, LONGWELL & ACORD, PLLC

Sherry P. Bartley sbartley@mwsgw.com  
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC  
**Counsel for Peterson Farms, Inc.**

John Elrod jelrod@cwlaw.com  
Vicki Bronson vbronson@cwlaw.com  
P. Joshua Wisley jwisley@cwlaw.com  
Bruce W. Freeman bfreeman@cwlaw.com  
D. Richard Funk rfunk@cwlaw.com  
CONNER & WINTERS, LLP  
**Counsel for Simmons Foods, Inc.**

Stephen L. Jantzen sjantzen@ryanwhaley.com  
Paula M. Buchwald pbuchwald@ryanwhaley.com  
Patrick M. Ryan pryan@ryanwhaley.com  
RYAN, WHALEY, COLDIRON & SHANDY, P.C.

Mark D. Hopson mhopson@sidley.com  
Jay Thomas Jorgensen jjorgensen@sidley.com  
Timothy K. Webster twebster@sidley.com  
Thomas C. Green tcgreen@sidley.com  
Gordon D. Todd gtodd@sidley.com  
SIDLEY, AUSTIN, BROWN & WOOD LLP

Robert W. George robert.george@tyson.com  
L. Bryan Burns bryan.burns@tyson.com  
TYSON FOODS, INC

Michael R. Bond michael.bond@kutakrock.com  
Erin W. Thompson erin.thompson@kutakrock.com  
KUTAK ROCK, LLP  
**Counsel for Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., & Cobb-Vantress, Inc.**

R. Thomas Lay rtl@kiralaw.com  
KERR, IRVINE, RHODES & ABLES

Jennifer Stockton Griffin jgriffin@lathropgage.com  
David Gregory Brown  
LATHROP & GAGE LC  
**Counsel for Willow Brook Foods, Inc.**

Robin S Conrad rconrad@uschamber.com  
NATIONAL CHAMBER LITIGATION CENTER

Gary S Chilton gchilton@hcdattorneys.com  
HOLLADAY, CHILTON AND DEGIUSTI, PLLC  
**Counsel for US Chamber of Commerce and American Tort Reform Association**

D. Kenyon Williams, Jr. kwilliams@hallestill.com  
Michael D. Graves mgraves@hallestill.com  
HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON  
**Counsel for Poultry Growers/Interested Parties/ Poultry Partners, Inc.**

Richard Ford richard.ford@crowedunlevy.com  
LeAnne Burnett leanne.burnett@crowedunlevy.com  
CROWE & DUNLEVY  
**Counsel for Oklahoma Farm Bureau, Inc.**

Kendra Akin Jones, Assistant Attorney General Kendra.Jones@arkansasag.gov  
Charles L. Moulton, Sr Assistant Attorney General Charles.Moulton@arkansasag.gov  
**Counsel for State of Arkansas and Arkansas National Resources Commission**

Mark Richard Mullins richard.mullins@mcafeetaft.com  
MCAFEE & TAFT  
**Counsel for Texas Farm Bureau; Texas Cattle Feeders Association; Texas Pork Producers Association and Texas Association of Dairymen**

Mia Vahlberg mvahlberg@gablelaw.com  
GABLE GOTWALS

James T. Banks jtbanks@hhlaw.com  
Adam J. Siegel ajsiegel@hhlaw.com  
HOGAN & HARTSON, LLP  
**Counsel for National Chicken Council; U.S. Poultry and Egg Association & National Turkey Federation**

John D. Russell  
FELLERS, SNIDER, BLANKENSHIP, BAILEY  
& TIPPENS, PC

jrussell@fellerssnider.com

William A. Waddell, Jr.  
David E. Choate  
FRIDAY, ELDREDGE & CLARK, LLP  
**Counsel for Arkansas Farm Bureau Federation**

waddell@fec.net  
dchoate@fec.net

Barry Greg Reynolds  
Jessica E. Rainey  
TITUS, HILLIS, REYNOLDS, LOVE,  
DICKMAN & MCCALMON

reynolds@titushillis.com  
jraine@titushillis.com

Nikaa Baugh Jordan  
William S. Cox, III  
LIGHTFOOT, FRANKLIN & WHITE, LLC

njordan@lightfootlaw.com  
wcox@lightfootlaw.com

**Counsel for American Farm Bureau and National Cattlemen's Beef Association**

Also on this 7th day of August, 2008 I mailed a copy of the above and foregoing pleading to:

**David Gregory Brown**  
Lathrop & Gage LC  
314 E HIGH ST  
JEFFERSON CITY, MO 65101

**Thomas C Green**  
Sidley Austin Brown & Wood LLP  
1501 K ST NW  
WASHINGTON, DC 20005

**Dustin McDaniel**  
**Justin Allen**  
Office of the Attorney General (Little Rock)  
323 Center St, Ste 200  
Little Rock, AR 72201-2610

**Steven B. Randall**  
58185 County Road 658  
Kansas, Ok 74347



**Cary Silverman**

**Victor E Schwartz**

Shook Hardy & Bacon LLP (Washington DC)

600 14TH ST NW STE 800

WASHINGTON, DC 20005-2004

**George R. Stubblefield**

HC 66, Box 19-12

Proctor, Ok 74457

**C Miles Tolbert**

Secretary of the Environment

State of Oklahoma

3800 NORTH CLASSEN

OKLAHOMA CITY, OK 73118

/s/ M. David Riggs